

**ORDINANCE NO. 08-85**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 22. M-1 INDUSTRIAL DISTRICT, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 98-1371 ENTITLED "PERMITTED USES" TO ALLOW OUTDOOR DINING FOR LIMITED SERVICE RESTAURANTS AS FIRST ALLOWED IN B-1 ZONING DISTRICTS AND FULL-SERVICE RESTAURANTS HAVING A MINIMUM FLOOR AREA UNDER ROOF OF 850 SQUARE FEET BASED ON SITE PLAN REVIEW AND APPROVAL; AND PROVIDE LIMITATIONS ON HOURS OF OPERATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of August 13, 2008 recommended approval of this ordinance in substantial form; and

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the specific intent and purpose of this ordinance is to provide allow for outdoor dining for limited service restaurants that are first permitted in B-1 Highly Restricted Retail District and full-service restaurants having a minimum floor area of 850 square feet.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, Division 22. M-1 Industrial District, of the Code of Ordinances of the City

of Hialeah, Florida is hereby amended to read as follows:

## **Chapter 98**

### **ZONING**

\* \* \*

## **ARTICLE V. ZONING DISTRICT REGULATIONS**

\* \* \*

### **DIVISION 22. M-1 INDUSTRIAL DISTRICT**

#### **Sec. 98-1371. Permitted uses.**

(a) In the M-1 Industrial district, the permitted uses for land, buildings and other improvements are subject to the general conditions requiring that all storage of materials and products and all operations of work of every character are carried on entirely within the enclosing walls and under the roof of a building and/or enclosed by a masonry wall with a minimum height of eight feet when the work is of a nature to be performed outside of a building. General conditions of the M-1 industrial district also require that where there is storage of materials or products outside the building and where the property abuts or is adjacent to property zoned commercial or industrial, the materials or products may be enclosed by a wall, fencing or other suitable material which effectively obscures the public view from the outside, reduces noise and conforms to the aesthetics of the surrounding area. The permitted uses of the M-1 industrial district are the following:

- (1) Any uses permitted in a C-2 liberal retail commercial district, except that restaurants shall not sell, offer for sale, deliver, serve or permit to be consumed on the premises any alcoholic beverages, wine and/or beer. Outdoor dining for limited

service restaurants first allowed in B-1 districts having a minimum floor area under roof of 850 square feet and full-service restaurants having a minimum floor area under roof of 850 square feet shall be prohibited may be allowed based on submission of a site plan approved by the city. Sufficient and adequate parking, traffic flow and circulation patterns shall be given great weight in the determination of whether or not a site plan is approved. Hours of operation for outdoor dining shall not be later than 10:00 p.m. nightly.

\* \* \*

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections

of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 6: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

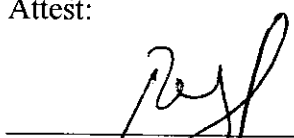
**Section 7: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

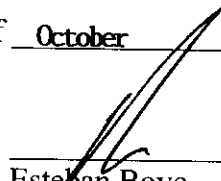
PASSED AND ADOPTED this 14th day of October, 2008.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

Attest:

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

Approved on this 14 day of October, 2008.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.